HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 21017 of 2006

Between:

M/s. Charbhai Beedi Works,
Represented by its Senior Personal manager,
Mr. Abdul Muneer,
R/o Bodhan Road,
Nizamabad.

..Petitioner

And

The Municipal Corporation of Nizamabad,
Rep., by its Commissioner,
Nizamabad,
Nizamabad district.

..Respondent.

:ORDER:

Counsel for the petitioner : Shri Kuriti Bhaskara Rao

October 11, 2006:

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Per G.S. Singhvi, CJ

In this petition, the petitioner has prayed for issue of a direction to the Municipal Corporation of Nizamabad to consider and dispose of its representation dated 09-07-2006 and legal notice dated 18-08-2006.

We have heard Shri Kuriti Bhaskara Rao, learned advocate for the petitioner and perused the record.

In our opinion, the writ petition cannot be entertained because the persons, who are said to have raised illegal construction and whose names are known to the petitioner, as is evident from the contents of representation dated 09-07-2006, have not been impleaded as party respondents and without issuing notice and hearing them, no order prejudicially affecting their rights can be passed by the court.

We are further of the view that the petitioner has an effective alternative remedy by way of civil suit and there is no extraordinary reason for making departure from the settled law that the High Court will not entertain the writ petition under Article 226 of the Constitution of India, if an effective alternative remedy is available to the petitioner.

For the reasons stated above, the writ petition is dismissed leaving the petitioner free to avail alternative remedy by filing civil suit.

While dismissing the writ petition, we may hasten to add that if the petitioner had sought intervention of the court at the commencement of the construction by producing some tangible evidence that the disputed construction is being raised without obtaining sanction from the competent authority or is in violation of sanctioned plan, the court may have entertained its grievance.

As a sequel to dismissal of main petition, W.P.M.P.No. 26665 of 2006 filed by the petitioner for interim relief is also dismissed.

G.S. SINGHVI, CJ

C.V. NAGARJUNA REDDY

11-10-2006

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